

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of A. L. THOMPSON, Minor.

UNPUBLISHED

January 14, 2014

No. 317098

Midland Circuit Court

Family Division

LC No. 13-004190-NA

Before: WHITBECK, P.J., and FITZGERALD and O'CONNELL, JJ.

PER CURIAM.

Respondent father appeals as of right the trial court's order terminating his parental rights to his child under MCL 712A.19b(3)(g) (failure to provide proper care and custody) and (j) (reasonable likelihood of harm to child if returned to parent). We affirm.

This case began in February 2013, when the child was aged three. The child's maternal grandmother became concerned about the child's mother, having not heard from her for a few days. The grandmother went to the mother's home and found her looking "like she was almost dead." The child's father was in the home, but he opposed calling an ambulance. The grandmother called an ambulance nonetheless, and the emergency responders took mother to the hospital. At the hospital, medical personnel determined that the mother had sustained blunt force head trauma. She had extensive bruising all over her body. She underwent surgery for blood clots in her brain, and the surgeons placed permanent plates in her skull to repair a skull fracture. When she regained consciousness, she had no memory of the three days prior to the day she was admitted to the hospital.

The mother was discharged from the hospital in March 2013. When she returned home, she found her iPod under her bed. On the iPod, she came across video recordings that were made during the three days prior to her hospitalization. It was apparent that respondent had created the videos, which depicted the mother in an incapacitated state with blood on her head and bruises covering her body. She was naked in some of the videos. In other videos, respondent undressed the mother in the presence of the child. One video depicts respondent engaging in a sexual act with the mother, who appeared unconscious. Respondent could be heard making explicit sexual comments and speaking to the child about what he was doing. On some of the videos, the child could be heard crying, or asking the mother questions at respondent's direction. The mother gave the iPod with the videos to the police.

The trial court terminated respondent's parental rights under MCL 712A.19b(3)(g) and (j) at the initial disposition hearing. On appeal, respondent first argues that the trial court erred in

finding that clear and convincing evidence supported termination of his parental rights under these provisions. We disagree.

We review for clear error the trial court's factual findings in an order to terminate parental rights. See MCR 3.977(K). "A finding is 'clearly erroneous' [if] although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made." *In re Rood*, 483 Mich 73, 91; 763 NW2d 587 (2009), quoting *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989) (quotation marks omitted). We must give regard "to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it." *In re Ellis*, 294 Mich App 30, 33; 817 NW2d 111 (2011).

Termination of parental rights is warranted under MCL 712A.19b(3)(g) or (3)(j) if the trial court finds by clear and convincing evidence that:

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

* * *

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

In this case, the mother testified that respondent had previously pushed her down a stairway, hit her with a hanger, and pushed her off of a porch. A police officer testified that the mother's most recent brain injury was consistent with some type of assault. Regardless of how the mother's brain injury was caused, the undisputed evidence showed that respondent made no attempt to obtain medical help for her during a time when the mother was severely injured and semi-conscious. Instead, respondent created a highly disturbing video of the mother, in the presence of the three-year-old child. This evidence clearly supported the trial court's conclusion that termination was warranted under both MCL 712A.19b(3)(g) and (j).

Next, respondent argues that the trial court erred in finding that termination of his parental rights was in the child's best interests under MCL 712A.19b(5). We disagree. We review the trial court's best-interest determination for clear error. *In re Olive/Metts Minors*, 297 Mich App 35, 41; 823 NW2d 144 (2012).

The infant mental health specialist who is working with the child and the mother testified that the child suffered severe emotional trauma from the exposure to respondent's actions. The specialist further testified that the child displayed inappropriate sexual behavior, physical aggression, and confusion about life and death. This testimony supported the trial court's conclusion that respondent's behavior in making the videos destroyed any positive interaction respondent may have with the child. The testimony also supported the court's conclusion that termination was necessary to enable the child to have permanency and stability. In sum, the evidence supports the trial court's decision that termination is in the child's best interests.

Affirmed.

/s/ William C. Whitbeck

/s/ E. Thomas Fitzgerald

/s/ Peter D. O'Connell